

## INTRODUCTORY COMMENTS

The Board is well aware of the important role the Massachusetts judiciary plays in protecting our citizens and providing them with forums in which they can obtain fair and effective resolution of issues concerning their legal obligations and duties, in ensuring the stability of the rule of law, and in defining and implementing constitutional rights. A stable Massachusetts judiciary requires recruitment and retention of the "best and the brightest." Thus far, we are fortunate to have achieved that goal. But, assurance of maintaining this goal has been placed in serious jeopardy by reason of inadequate judicial compensation that has failed to keep up with either inflation or rising salaries in other professions and occupations. Unless the problem of stagnant compensation is satisfactorily addressed, there will be, sooner rather than later, a steady erosion in the quality of justice, with adverse effects on the rights of our citizens.

The enclosed materials document the inadequacy of compensation for the Massachusetts judiciary. They do so from several perspectives which are readily apparent and are verified by data and information (both compensation and other information) from multiple sources. As the Board weighs this submission, and reaches its conclusions on the problem, it should also keep in mind the following:

- Massachusetts judges are dealing with heavy and incrementally increasing case loads in every trial court department.
- These caseloads involve a larger (and growing) number of difficult legal and constitutional issues which require careful research and intense deliberation.
- The number of appellate cases steadily continues to increase.
- Massachusetts judges (on a rotating basis) are on-call twenty four hours a day.
- Public scrutiny, through the media and other sources, has intensified dramatically to the point that many decisions of judges can become instant cause célèbres.

- As a result of the foregoing, judges work in an increasingly demanding environment where they have to exhibit unusual courage in the face of unjustified public criticism, so that the rights of all litigants can be protected.
- Massachusetts judges, because of ethical and time restraints, are severely limited in opportunities to earn additional compensation. They are allowed, principally, to teach (after court hours) or to write. The salaries at law schools paid to judges to teach as adjuncts are modest. Writing a book is beyond the capacity of most because of the time constraints of the judge's position, which, in itself, requires incessant and considerable writing to explain the judge's decisions
- The restrictions just noted are not imposed on law professors (and others in the legal profession), who are free to supplement their income by a variety of outside activities, such as writing books and consulting.
- Massachusetts judges frequently are called upon to engage in public outreach by speaking to civic groups, citizen forums, and high school, college, and law school classes. They are pleased to do so. These activities are not compensated (nor should they be), but are illustrative of the additional duties expected of judges
- A failure to restore judicial compensation to adequate levels will lower morale, harm the reputation of the judiciary, diminish its power to attract and retain well-qualified judicial candidates and, overall, decrease institutional performance.

We trust these submissions will be helpful, and thank the board members for giving of their time and talents to conduct this important study.

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